

**DEPARTMENT OF STATE REVENUE****LETTER OF FINDINGS NUMBER 02-0071  
RESPONSIBLE OFFICER  
SALES TAX  
For Tax Periods: 1995-1997**

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**Issue****SALES TAX-Responsible Officer Liability**

**Authority:** IC 6-2.5-9-3, IC 6-2.5-2-1.

The taxpayer protests the assessment of responsible officer liability for unpaid use taxes.

**Statement of Facts**

The taxpayer was an officer of three related corporations that were audited by the Indiana Department of Revenue, hereinafter referred to as the "department." The sales and use tax audit resulted in an additional use tax liability. This liability was personally assessed against the taxpayer. After the taxpayer protested the personal assessment, a hearing was held. More facts will be provided as necessary.

**SALES TAX-Responsible Officer Liability****Discussion**

Retail merchants collect sales taxes as agents for the state pursuant to IC 6-2.5-2-1. If a corporate retail merchant has collected sales taxes and failed to remit them to the state, the corporate officers can be held personally responsible for the payment of the collected trust taxes pursuant to IC 6-2.5-9-3. The department assessed the corporations' audit liabilities personally against the taxpayer.

The audits indicate that each of the corporations properly remitted all sales taxes due to the state. The additional liabilities resulted from the corporations' failure to self assess and remit use taxes on tangible personal property used and consumed in the business. Use taxes are not trust taxes that can be personally assessed against corporate officers.

**Finding**

The taxpayer's protest is sustained.